

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
October 15, 2002

Court convened at 9 a.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Gilbert Nares  
Clerk: D. E. Moore

**D039196        People, etc. v. Kenneth Samples**

Cause called on merits. Josephine A. Kiernan, Deputy District Attorney argued for appellant. Donal M. Hill, Esq. argued for respondent. Ms. Kiernan replied. Cause submitted.

**D037571        D & A Mortgage Fund II v. Herring & Loftus**

Cause called on merits. Thomas R. Laube, Esq. argued for appellant. Earl H. Maas, III, Esq. argued for respondent. Mr. Laube replied. Cause submitted.

Court recessed at 9:47 a.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Terry O'Rourke

**D040486        Palmer v Superior Court**

Matter called on merits. Mitchel J. Olson, Esq. argued for petitioner. Kenneth Robert Pedroza, Esq. argued for real party in interest. Julie L. Woods, Esq. argued for amicus curiae California Medical Association. Mr. Olson replied. Matter submitted.

Court recessed at 10:31 a.m. until 1:30 p.m.

**D039145        Searle v. Wyndham International, Inc.**

Judgment affirmed. Certified for Publication. Benke, J.; We Concur: Kremer, P.J, McIntyre, J.

**D037935        Palizban and Hangafarin v. Chini**

Upon written stipulation filed by the parties to the appeal and cross-appeal, the appeal and cross-appeal are dismissed and the remittitur is ordered to issue immediately (Cal Rules of Court, rule 19(b)). Each party to bear own costs on appeal.

**D039220        In re Amber M., a Juvenile**

The judgment terminating parental rights is reversed and the matter is remanded for a new section 366.26 hearing. In all other respects, the judgment is affirmed. O'Rourke, J.; We Concur: Huffman, Acting P.J., Haller, J.

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Court reconvened at 1:30 p.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Judith McConnell  
Clerk: D. E. Moore

**D037962)        Stretton, III v. Freeburn**

**D038003)        Stretton v. Richardson**

**D038010)        Richardson v. Stretton**

Cause called on merits. Richard Kolek, Esq. argued for appellant. Roy Withers, Esq. was present in oral argument for respondent, but did not argue. Diane Gail Stretton, argued for appellant in pro per. Cause submitted.

**D038488        People v. Alberson**

Cause called on merits. Joanna McKim, Esq. argued for appellant. Mike Murphy, Deputy Attorney General argued for respondent. Cause submitted.

**D038795        Augustine v. Intervu, Inc.**

Cause called on merits. Erik S. Bliss, Esq. argued for appellant. Michael H. Fish, Esq. argued for respondent. Mr. Bliss replied. Cause submitted.

**D037210        Shea Homes Limited Partnership et al. v. Childress Concrete, Inc.**

Cause called on merits. Michael W. Quade, Esq. argued for appellant/cross-respondent. Mary B. Pendleton, Esq. argued for respondent/cross-appellant. Mr. Quade replied. Cause submitted.

Court recessed at 2:31 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Judith McConnell

**D038598        Florists' Transworld Delivery, Inc. v. Petal N' Pots et al.**

Cause called on merits. Jennifer B. Gardner, Esq. argued for appellant. Massie Holland, argued for respondent in pro per. Ms. Gardner replied. Cause submitted.

Court recessed at 2:46 p.m. until Wednesday, October 16, 2002 at 9 a.m.

**D040428        People v. Cullinan**

The appeal is dismissed.

**D040495        People v. White**

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 38).

**D040769        Weaver v. Superior Court of San Diego County/People**

The petition is denied.

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**D040126        People v. Taylor**

Judgment affirmed. O'Rourke, J.; We Concur: Benke, Acting P.J., McConnell, J.

**D038796        People v. Cornejo**

The judgment is affirmed. McDonald, Acting P.J.; We Concur: O'Rourke, J., McConnell, J.

**D040946        Robinson v. Superior Court of Imperial County/The People**

The petition is denied.

**D040457        Louis J. v. The Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The petition is denied. Benke, Acting P.J.; We Concur: Huffman, J., O'Rourke, J.

**D040722        Lockheed Martin IMS Corporation et al. v. Superior Court of San Diego County/C.L. Trustees et al.**

The petition is denied.

**D038721        Caunin v. California Department of Corrections et al.**

The judgments in favor of the Department and Board are affirmed. McConnell, J.;

We Concur: Huffman, Acting P.J., O'Rourke, J.

**D040851        In re Laurie on Habeas Corpus**

The petition is denied.

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Alex McDonald

Clerk: D E Moore

**D038449        People v. Ledbetter**

Cause called on merits. John Evan Edwards, Esq. argued for appellant. Holly Hoffman, Deputy Attorney General argued for respondent. Mr. Edwards replied. Cause submitted.

**D039933        Orlando S. v. Superior Court/People-RPI**

Matter called on merits. Alex Landon, Esq. argued for petitioner. Angie Reddish-Day, Deputy City Attorney argued for real party in interest. Bill Holman, Deputy District Attorney argued for real party in interest. Kathryn Megli, Deputy Attorney General argued for real party in interest. Mr. Landon replied. Matter submitted.

**D038344        People v. Arthur**

**D039681        In re Arthur on Habeas Corpus**

Cause called on merits. Richard W. Weinthal, Esq. argued for appellant. Laura Stillwell, Deputy Attorney General argued for respondent. Mr. Weinthal replied. Cause submitted as to appeal ONLY, D038344.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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**D038685      San Diego Police Officers Association et al. v. City of San Diego Civil Service Commission et al.**

Cause called on merits. Bradley Fields, Esq. argued for appellant. James M. Chapin, Deputy City Attorney argued for respondent, City of San Diego Civil Service Commission. William H. Songer, Deputy County Counsel argued for respondent, County of San Diego Civil Service Commission. Mr. Fields replied. Cause submitted.

Court recessed at 10:48 a.m. to change panel members. New panel members: The Honorable Alex McDonald, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Terry O'Rourke

**D038380      Zamos v. Zamos**

Cause called on merits. Jerome Zamos, argued for appellant in pro per. James R. Spievak, Esq. argued for respondent. Stephen Temko, Esq. was present in oral argument for respondent, but did not argue. Mr. Zamos replied. Cause submitted.

Court recessed at 11:37 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Judith McConnell  
Clerk: D E Moore

**D039095      City of San Diego v. Commission on State Mandates**

Cause called on merits. Grant Richard Telfer, Deputy City Attorney argued for appellant. Deborah J. Bevier, Deputy City Attorney argued for appellant. Camille Shelton, Esq. argued for respondent, Commission on State Mandates. Meg Halloran, Deputy Attorney General argued for respondent, Department of Finance. Ms. Bevier replied. Cause submitted.

Court recessed at 2:10 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Judith McConnell

**D036377      People v. Phanbandith**

Cause called on merits. John J. Lanahan, Esq. argued for appellant. Gary Brozio, Deputy Attorney General argued for respondent. Mr. Lanahan replied. Cause submitted.

**D037784      People v. Adkins**

**D040022      In re Adkins on Habeas Corpus**

Cause called on merits. Allen R. Bloom, Esq. argued for appellant. Gary Brozio, Deputy Attorney General argued for respondent. Mr. Bloom replied. Cause submitted as to appeal ONLY, D037784.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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Court recessed at 2:44 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Terry O'Rourke

**D038705          Park et al. v. Oh**

Cause called on merits. J. Kenneth Jensen, Esq. argued for appellant. Mark Delmoral, Esq. argued for respondent. Mr. Jensen replied. Cause submitted.

**D039656          Wasatch Property Management v. Degrate**

Cause called on merits. Bernadette Probus, Esq. argued for appellant, Degrate. Catherine Bishop, Esq. argued for amicus curiae National Housing Law Project. Pat Tirey, Esq. argued for respondent. Gary D. Urie, Esq. was present in oral argument for respondent, but did not argue. Ms. Bishop replied. Cause submitted.

Court recessed at 3:30 p.m. until Thursday, October 17, 2002 at 9 a.m.

**D039945          Haddad v. Lessem**

The petition is denied.

**D040927          Sarantos etc. v. Superior Court of San Diego County/Heavenly Oaks Residential Community, LLC**

The petition is denied.

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**D036756        People v. Estrada**

Judgment affirmed. Haller, Acting P.J.; We Concur: O'Rourke, J., McConnell, J.

**D040264        In re Kurtis E., a Juvenile**

The appeal is dismissed. McDonald, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

**D039294        People v. Julien**

Judgment affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

**D039537        People v. Martinez**

The judgment is affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

**D040038        People v. Gibson**

Judgment affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

**D038820        People v. Davis**

The judgment is affirmed. Huffman, J.; We Concur: Kremer, P.J., O'Rourke, J.

**D038189        In re the estate of Rodriguez**

Judgment affirmed. Benke, J.; We Concur: Kremer, P.J., McConnell, J.

**D038324        People v. Jones**

The judgment is affirmed. O'Rourke, J.; We Concur: Huffman, Acting P.J., McDonald, J.

Court convened at 9:00 a.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Patricia Benke and James McIntyre  
Clerk: D. E. Moore

**D038759        Blue v. Copper Hills Apartments**

Cause called on merits. Charles Blue, was present in oral argument for appellant in pro per, and submitted on the briefs. Kevin W. Alexander, Esq. was present in oral argument for respondent, and submitted on the briefs. Cause submitted.

**D038045        Barratt American, Inc. v. Gray, Cary, Ware & Freidenrich**

Cause called on merits. Matthew Christopher Kilman, Esq. argued for appellant. Deborah A. Wolfe, Esq. was present in oral argument for appellant, but did not argue. David Noonan, Esq. argued for respondent. Mr. Kilman replied. Cause submitted.

**D038788        Delaney v. Weiner**

Cause called on merits. William M. Henrich, Esq. argued for appellant. Richard C. Wildman, Esq. argued for respondent. Mr. Henrich replied. Cause submitted.

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**D037808       Vallese et al. v. Avelar et al.**

Cause called on merits. Wayne Templin, Esq. argued for appellant. Terrance W. Stowe, Esq. argued for respondent. David J. Hollander, Esq. was present in oral argument for respondent, but did not argue. Mr. Templin replied. Cause submitted.

Court recessed at 9:58 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Alex McDonald  
Clerk: D. E. Moore

**D038093)       Greer v. City of Escondido, et al.**

**D038644)       Greer v. City of Escondido, et al.**

Cause called on merits. Mike Turk, Esq. argued for appellant/cross-respondent. Scott Harrison Toothacre, Esq. was present in oral argument for appellant/cross-respondent, but did not argue. Michael M. Hogan, Esq. argued for respondent/cross-appellant. Jennifer K. McCain, Deputy City Attorney was present in oral argument for respondent, but did not argue. Cause submitted.

**D038402       Abrams et al. v. City of San Diego**

Cause called on merits. Louis E. Goebel, Esq. argued for appellant. John P. Mullen, Deputy City Attorney argued for respondent, City of San Diego. Steven A. McKinley, Esq. argued for r.p.i.-respondent, Mesa Shopping Center East. Mr. Goebel replied. Cause submitted.

**D038225       Zoura v. Acceptance Insurance Company et al.**

Cause called on merits. Steve Taylor, Esq. argued for appellant. Raymond Dion, Esq. argued for respondent. Mr. Taylor replied. Cause submitted.

Court recessed at 2:34 p.m. until Friday, October 18, 2002 at 9 a.m.

**D038120       Bering v. Interinsurance Exchange of the Automobile Club**

The judgment is affirmed. Nares, J.; We Concur: Kremer, P.J., Benke, J.

**D038923       People v. Pifath**

The convictions on counts 2, 4, and 6 are reversed. Presentence conduct credits are modified from 58 days to 194 days. In all other respects, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and forward it to the Department of Corrections. Huffman, J.; We Concur: Benke, Acting P.J., McConnell, J.

**D039553       Day v. Army**

Judgment affirmed. Benke, J.; We Concur: Kremer, P.J., McIntyre, J.

**D039669       People v. Lockett**

Judgment affirmed. McDonald, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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October 17, 2002 (Continued)

**D039947        People v. Wright**

The judgment is affirmed. Huffman, J.; We Concur: Kremer, P.J., O'Rourke, J.

**D039346        People v. Khemmanivong**

Judgment affirmed. McDonald, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

**D040312        In re D.M., a Juvenile**

The order is affirmed. Haller, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

**D039673        People v. Carillo**

The judgment is affirmed. McDonald, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

**D038925        People v. Lopez**

The judgment is affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

**D039712        People v. Ceasar**

Judgment affirmed. Haller, J.; We Concur: Kremer, P.J., Huffman, J.

**D040990        Life Generations Healthcare Inc. v. Superior Court of San Diego County/Funk et al.**

The petition is denied.

**D040882        Gordner v. Superior Court of San Diego County/People**

The petition is denied.

**D040723        Pillsbury Madison & Sutro et al. v. Workers' Compensation Appeals Board and  
Republic Indemnity Company**

The petition is denied.

**D040877        Fritsch et al. v. Superior Court of San Diego County/Sarah K.**

At the request of petitioners, the petition for writ of mandate is dismissed.



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**D038253        Fraitag v. Cashuk**

The judgment is affirmed. O'Rourke, J.; We Concur: Huffman, Acting P.J., Haller, J.

**D038340        Falcone et al. v. Stevens**

The petition for rehearing is denied on the merits.

**D038700        People v. Ayele**

The judgment is affirmed. CERTIFIED FOR PUBLICATION. McDonald, J.;  
We Concur: Huffman, Acting P.J., McConnell, J,

Court convened at 9:00 a.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices  
Gilbert Nares and James McIntyre

Clerk: D. E. Moore

**D038916        Fletcher v. City of San Diego et al.**

Cause called on merits. Kent C. Wilson, Esq. argued for appellant. John P. Mullen, Deputy City  
Attorney argued for respondent. Mr. Wilson replied. Cause submitted.

**D039356        In re Alexis G. et al., Juveniles**

Cause called on merits. Andrea St. Julian, Esq. argued for appellant, Alexis G. Maryann M. Milcetic,  
Esq. argued for appellant, Misty T. Craig E. Arthur, Esq. argued for appellant, Nancy T. Gary Seiser,  
Deputy County Counsel argued for respondent. Ms. St. Julian replied. Ms. Milcetic replied. Cause  
submitted.

Court recessed at 10:11 a.m. to change panel members. New panel members: The Honorable  
Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald  
and James McIntyre

**D039116        Greater Perris Valley Industrial Association et al. v. County of Riverside**

Cause called on merits. Henry E. Heater, Esq. argued for respondent. Jared G. Flinn, Esq. argued for  
appellant. Mr. Heater replied. Cause submitted.

**D038326        Casa Herrera, Inc. v. Nasser Beydoun et al.**

Cause called on merits. Matthew V. Herron, Esq. argued for appellant. Ira S. Carlin, Esq. argued for  
respondent, Beydoun. Nicola T. Hanna, Esq. argued for respondent, Community First National Bank.  
Mr. Herron replied. Cause submitted.

Court recessed at 11:08 a.m. until 1:30 p.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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Court reconvened at 1:30 p.m.

Present: The Honorable Alex McDonald, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Judith McConnell  
Clerk: D. E. Moore

**D037761        Elsner v. Uveges**

Cause called on merits. Scott M. Bonesteel, Esq. argued for appellant/cross-respondent, Uveges. Daniel U. Smith, Esq. argued for respondent, Elsner. Terry Singleton, Esq. was present in oral argument for respondent, Elsner but did not argue. Mr. Bonesteel replied. Marguerite I. Delbourgo, Esq. argued for appellant, State Compensation Insurance Fund. Scott M. Bonesteel, Esq. argued for appellant/cross-respondent, Uveges. Ms. Delbourgo replied. Cause submitted.

**D037255        Edenbaum v. Dalton**

Cause called on merits. Janice R. Mazur, Esq. argued for appellant, Edenbaum. Steven David Wasserman, Esq. argued for respondent, Dalton. Ms. Mazur replied. Cause submitted.

**D038707        County of San Diego v. Cigna Property and Casualty Company et al.**

Cause called on merits. David L. Mulliken, Esq. argued for appellant. Jonathan H. Pittman, Esq. argued for respondent, Cigna Property. Edward D. Chapin, Esq. was present in oral argument for respondent Cigna Property, but did not argue. Mr. Mulliken replied. Cause submitted.

Court recessed at 3:18 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Judith McConnell

**D037385        Dow Corning Corporation v. Hyspan Precision Products**

Cause called on merits. Stephen Earl Ronk, Esq. argued for appellant. Cyril Edward Armbrister, Esq. was present in oral argument for appellant, but did not argue. Mark T. Brisebois, Esq. argued for respondent. Cause submitted.

Court recessed at 4 p.m. until Monday, October 21, 2002 at 9 a.m.

**D040930        In re Clemente on Habeas Corpus**

Petition is denied without prejudice to his filing an appropriate petition in the Superior Court.